

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AARON FULK,

Plaintiff,

v.

ALAN NANCE, *et al.*,

Defendants.

Case No. C24-2175-LK-SKV

REPORT AND RECOMMENDATION

I. INTRODUCTION

This is a *pro se* civil rights action proceeding under 42 U.S.C. § 1983. Plaintiff Aaron Fulk has been granted leave to proceed with this action *in forma pauperis*. Service has not been ordered. This Court, having reviewed Plaintiff's complaint, and the balance of the record, concludes that Plaintiff has not stated a viable claim for relief in this action. The Court therefore recommends that Plaintiff's complaint and this action be dismissed, without prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B).

II. DISCUSSION

On December 13, 2024, Plaintiff submitted to the Court for filing a civil rights complaint under 42 U.S.C. § 1983. *See* Dkt. 1. Plaintiff was at that time confined at the King County

1 Correctional Facility (“KCCF”), but he was subsequently transferred to Western State Hospital.
2 *See* Dkts. 1, 2. Plaintiff identified two claims in his complaint, each alleging a violation of his
3 Eighth Amendment right to be free from cruel and unusual punishment while housed at KCCF.
4 *See* Dkt. 6. In the first count of his complaint, Plaintiff asserted that he was exposed to
5 contaminated water at KCCF for a period of eight or nine months, and that this caused him to
6 feel nauseous and to have diarrhea. *Id.* at 4-5. He claimed that he thereafter experienced
7 significant anxiety when drinking water or showering at KCCF because of uncertainty about the
8 cleanliness of the water. *Id.*

9 In the second count of his complaint, Plaintiff asserted that he suffered a painful infection
10 in his groin while housed in “the hole” at KCCF because of a lack of sanitation in the unit. Dkt.
11 6 at 6-7. Plaintiff claimed that inmates in that area were frequently seen throwing feces at each
12 other and minimal clean-up, if any, was ever done. *Id.* at 6, 10. Plaintiff also asserted in the
13 second count of his complaint that a majority of the cell doors on the 10th and 11th floors of
14 KCCF have stains from feces and urine running down from the slot where meals are served, and
15 the doors never get cleaned. *Id.* Plaintiff claimed that inmates in those areas were very
16 concerned for their health and safety and frequently experienced “cold-like” symptoms. *Id.* at 7.

17 Plaintiff identified KCCF and Alan Nance, Director of the King County Department of
18 Adult and Juvenile Detention, as Defendants in his complaint. Dkt. 6 at 1, 3. He requested
19 damages in the amount of \$450,000. *Id.* at 9.

20 After reviewing Plaintiff’s complaint, this Court concluded that Plaintiff had not stated
21 any viable claim for relief in his pleading. Thus, on January 14, 2025, the Court issued an Order
22 declining to serve Plaintiff’s complaint and granting him leave to file an amended complaint
23 correcting specified deficiencies. *See* Dkt. 7. Among the deficiencies noted therein was that

1 Plaintiff made no reference to Director Nance in the statement of his claim suggesting Plaintiff
2 was attempting to proceed against this Defendant based solely on his supervisory position,
3 something that is not permitted under § 1983. *Id.* at 4-5. The Court further noted that KCCF, as
4 an entity of King County, was not a proper defendant. *Id.* at 5. The Court explained that
5 Plaintiff could pursue a claim against King County, but this would require he name King County
6 as a defendant and identify a policy or custom of the County that caused him harm. *Id.* Finally,
7 with respect to Plaintiff's conditions of confinement claims, the Court explained that those
8 claims arose under the Fourteenth Amendment and not the Eighth Amendment as alleged in the
9 complaint. *Id.* at 5-6. The Court further explained that the facts alleged in the complaint lacked
10 sufficient detail to demonstrate that Plaintiff had suffered a violation of his Fourteenth
11 Amendment rights. *See id.*

12 Plaintiff was given thirty days to file an amended complaint correcting the noted
13 deficiencies and was advised that if he failed to do so the Court would recommend this action be
14 dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B). Dkt. 7 at 7-8. To date, Plaintiff has not filed
15 an amended complaint. Because Plaintiff failed to set forth in his original complaint any viable
16 claim for relief, and because Plaintiff has not filed an amended complaint correcting the
17 deficiencies previously identified by the Court, this action must be dismissed.

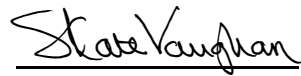
18 III. CONCLUSION

19 Based on the foregoing, this Court recommends that Plaintiff's complaint and this action
20 be dismissed without prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B). A proposed Order
21 accompanies this Report and Recommendation.

22 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
23 served upon all parties to this suit not later than **fourteen (14) days** from the date on which this

1 Report and Recommendation is signed. Failure to file objections within the specified time may
2 affect your right to appeal. Objections should be noted for consideration on the District Judge's
3 motions calendar **fourteen (14) days** from the date they are filed. Responses to objections may be
4 filed by **the day before the noting date**. If no timely objections are filed, the matter will be ready
5 for consideration by the District Judge on **April 28, 2025**.

6 DATED this 7th day of April, 2025.

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9 S. KATE VAUGHAN
United States Magistrate Judge